

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA

V.

CRIMINAL COMPLAINT

JOSHUA A. FINLEY,

CASE NUMBER: 09-M-415

I, Doreen Andrews, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief. In the State and Eastern District of Wisconsin, and elsewhere, JOSHUA A. FINLEY, the defendant herein engaged in the following conduct:

Count One: On or about February 24, 2009, to March 4, 2009, knowingly used a facility in interstate commerce, namely a computer and cellular telephone, to attempt to knowingly persuade, induce, entice and coerce an individual who had not attained the age of 18 years, to engage in sexual activity for which a person can be charged with a criminal offense, all in violation of Title 18, United States Code, Section 2422(b).

Count Two: On March 4, 2009, knowingly traveled in interstate commerce from Illinois to Milwaukee, Wisconsin, for the purpose of engaging in illicit sexual conduct with another person. Specifically, Finley traveled from Illinois, to Milwaukee, Wisconsin for the purpose of having sexual contact with "Amy," whom he believed to be a 14 year old girl; all in violation of Title 18, United States Code, Section 2423(b).

Count Two: On or about March 4, 2009, knowingly possessed child pornography, in violation of Title 18, United States Code, Section 2252(a)(4)(B).

I further state that I am a Detective with the Milwaukee Police Department, and this complaint is based on the following facts:

Please see the attached affidavit.

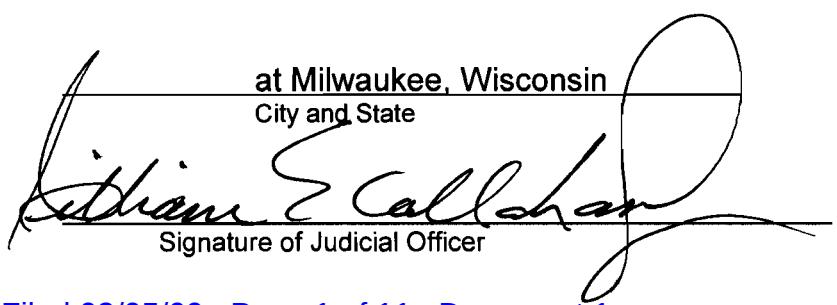
Continued on the attached sheet and made a part hereof: X Yes No


Signature of Complainant
Doreen Andrews

Sworn to before me and subscribed in my presence,

March 5th 2009
Date

The Honorable William E. Callahan, Jr.
United States Magistrate Judge
Name & Title of Judicial Officer


at Milwaukee, Wisconsin
City and State
Signature of Judicial Officer

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Doreen Andrews, being duly sworn on oath, state as follows:

Purpose of this Affidavit.

I make this affidavit in support of a criminal complaint charging Joshua A. Finley, date of birth 05-08-1978, with Title 18 U.S.C. § 2422(b) (using a facility and means of interstate commerce to knowingly attempt to persuade, induce, entice and coerce a minor to engage in sexual activity, for which any person can be charged with a criminal offense, namely, under Wisconsin Statute 948.02 (2), and knowingly traveled in interstate commerce from Illinois to Milwaukee, Wisconsin for the purpose of engaging in illicit sexual contact with a minor in violation of title 18 U.S.C. § 2423(b), and with Title 18 U.S.C. § 2252(a)(4)(B) (possession of child pornography).

Background and experience of affiant.

1. I am a Detective with the Milwaukee Police Department (MPD) and have been employed by MPD for 17 years, 10 years as a Detective. Since its inception in 2004, I have been assigned to the Criminal Investigation Bureau's High Technology Unit. As part of my duties with the High Technology Unit, I investigate violations of state and federal criminal laws involving child exploitation and child pornography, which include the above referenced federal statutes.

I have received specialized instruction in the area of child pornography and child exploitation investigations. I received training in this area from the Internet Crimes Against Children Task Force, (ICAC), in a course entitled Undercover Chat Investigations and Child Pornography Investigations and at the Internet Crimes Against Children in Appleton,

WI in 2005. I have also received training in other areas pertaining to cyber crimes and computer forensics.

Basis for Facts Establishing Probable Cause.

2. The information contained in this affidavit is based upon my personal knowledge and investigation, my review of various documents and records, as well as information supplied to me by other detectives and law enforcement officers, all of whom I believe to be truthful and reliable. Everything set forth in this affidavit is true to the best of my knowledge and belief.

The information contained in this affidavit is not an exhaustive account of everything I know about this case. Rather, it contains only the facts that I believe are necessary to establish probable cause to believe that Joshua A. Finley committed the violations alleged in the criminal complaint.

Facts Establishing Probable Cause.

3. This offense occurred in the Eastern District of Wisconsin. I am assigned to operate in an undercover capacity on the Internet for the purpose of identifying and investigating persons attempting to exploit or solicit sexual acts with children. On Tuesday, February 24, 2009, at 3:28pm, while I was online in a Yahoo, Romance, Illinois chat room, in an undercover capacity as a 14-year-old female, I received an instant message from a subject having the screen name, shua024. This subject was later identified as Joshua A. Finley, date of birth xx-xx-1978, of 445 Cambridge Drive, Geneva, IL.

Due to the fact that my undercover identity is currently in use in other investigations, I will not reveal my screen name in this affidavit, but will refer to my undercover persona as "Amy". My chats with Joshua A.

Finley occurred from an undercover computer, located in the High Technology Unit of the Milwaukee Police Department, located at 749 W. State St., Milwaukee, Wisconsin.

I had entered the Yahoo, Romance, Illinois chat room, and waited to receive instant messages from any users in the room. Joshua A. Finley began an instant message chat conversation with me. The portion of that chat is as follows, but I have replaced my screen name with "Detective Andrews":

shua024 (Tue Feb 24 15:28:33 2009): hey im josh, looking to chat??

Detective Andrews (Tue Feb 24 15:30:49 2009): sure im Amy

shua024 (Tue Feb 24 15:31:04 2009): age? pics??

shua024 (Tue Feb 24 15:31:12 2009): im 30/m/west burbs of chicago, single

shua024 (Tue Feb 24 15:31:57 2009):

Detective Andrews (Tue Feb 24 15:32:03 2009): 14 milwaukee pic on pro

shua024 (Tue Feb 24 15:32:33 2009): yummy, like older guys?

shua024 (Tue Feb 24 15:34:02 2009): ?

I was not able to immediately respond to Finley, but I kept the chat window open, and responded at 5:43pm, telling shua024, "sorry I had 2 go chill with my friend who came over". Finley immediately responded, and asked, "like older men?" I responded as "Amy", telling Finley, "ya if there cool". Finley then turned the chat conversation sexual, asking "Amy" if she was a virgin, and asking, "suck cock?" I know the phrase "suck cock" to mean an act of oral sex. Finley then continued the sexual conversation, asking "Amy", "would you mess around with me?" He also asked "Amy", "would you let me pop your cherry", which is a phrase I know to mean

sexual intercourse. She told him that the only thing she was afraid of was getting pregnant.

Finley told "Amy" that he lived "outside of Chicago", and asked "Amy" if she was looking for a boyfriend. He continued talking sexually, and asked "Amy" if she wanted to "play on the phone", which is a phrase I know to refer to phone sex. "Amy" told Finley that she could talk on the phone, but couldn't play on the phone because her mom came home. Finley asked "Amy", "when can I come to Milwaukee and taste you?"

Shortly after that, in the same chat conversation, Finley asked "Amy" if she wanted him to call her. I then provided Finley with the telephone number to my undercover cellular telephone, and posing as the 14 year old "Amy" with whom Finley had been chatting, I had a telephone conversation with Finley, who had called from a private telephone number.

During the call on that date, February 24, 2009, Finley asked "Amy" if she wanted to hook up, and he asked her if she would do "whatever". "Amy" told him that she had already told him the only thing she was afraid of, and he told her that he would wear a condom. During this phone conversation, "Amy" told Finley that she didn't want him to tell anyone, and he stated, "you're the one who can't tell anybody, you're underage". He continued, "I'm thirty years old. You're fourteen". He continued, "I could get in a lot of trouble". "Amy" told Finley that she wasn't looking to get anyone in trouble, so if he didn't want to that would be all right with her. Finley told her that he totally wanted to. Finley told her that he wanted to get together that weekend, hopefully. He said, "suck and fuck all day". "Amy" told Finley that he could call her whenever he wanted to except at school. He asked her what year she was in school, and she told

him that she was a freshman in 9th grade. Finley replied, "God, you're so young." He asked, "are you really gonna let me pop your cherry?" Finley began talking very sexually, and shortly after that, "Amy" told Finley that she had to get off the phone. He told her that he would call her the next day at 3:00.

During the chat on February 24, 2009, Finley displayed through Yahoo photo share images of a white male with long blondish/red hair, which he represented to be pictures taken of himself. I displayed images of a Milwaukee Police Department Police Aide, taken of her when she was 13-15 years old, which I represented to be "Amy".

On Wednesday, February 25, 2009, I logged on to Yahoo, and immediately received an instant message from shoua024, (Finley). During this chat conversation, Finley displayed several photos to "Amy" though Yahoo photo share. The photos depicted what appeared to be teenage females engaged in oral sex with males. One of the photos, titled "!-9-yr-sucks-bigx" depicted the profile view of a young female engaged in oral sex on a male. However, because the photo was taken from the side, I am not able to conclusively determine that the photo is that of a 9 year old.

During this conversation, Finley suggested cyber sex and phone sex to "Amy", but she did not agree to it. Finley then asked, "when can I come up?" He asked "Amy" if she could take a train to Chicago, and told her that he would pay for the train ticket for her to get there. "Amy" told him that she was afraid to take the train there, and he told "Amy" that he would "shoot for Saturday then". He began talking very sexually. He asked to see photos of "Amy", and I again displayed images of a Milwaukee Police Department Police Aide, and those photos were taken of her when she was 13-15 years old.

During this conversation, Finley asked to call "Amy" again, and we did speak briefly on the phone.

Finley and "Amy" sent offline messages (messages sent to a user who is not online at the time), on Thursday, February 26th and Friday, February 27th. Finley then sent text messages to "Amy" over the weekend of February 26th, but I did not talk with Finley online again until Tuesday, March 3, 2008. During this online chat conversation, Finley told "Amy" that he wanted to meet "Amy" the next day, and made plans that he would come to Milwaukee and they would go to "Amy's" house. Finley asked, "is that cherry ready to be popped?" "Amy" asked Finley, "how long will we b chillin 4," and Finley told "Amy", "few hours? Till I weaer your pussy out, till we fuck in every position".

We chatted a second time on Tuesday March 3, 2009, beginning at 11:40pm, and during this conversation Finley confirmed that he wanted to meet "Amy" for sexual contact, but wrote, "as long as you aren't a cop or part of a dateline nbc special or something". "Amy" told him that she was not. Finley and "Amy" agreed to meet at the Omega Burger, located at 2130 S. Kinnickinnic Ave. in Milwaukee on Wednesday, March 4, 2009. Finley told "Amy" to call him in the morning to confirm plans.

On Wednesday, March 4, 2009, posing as "Amy", I did call the phone number 630-715-9978, and spoke with Finley on the phone. He stated that he was still planning on coming to Milwaukee, and that he would arrive sometime between 10:30 and 11:00am. The meeting spot would be the Omega Burger restaurant.

Members of the Milwaukee Police Department ICAC task force, along with members of the FBI Cyber Crimes Task Force went to the area of 2130 S. Kinnickinnic Ave. in preparation of the meet on Wednesday,

March 4, 2009. Finley texted my undercover phone several times during the trip, telling me that he was still in the Chicago area, and then had passed Great America, and finally that he was near Milwaukee. He also called "Amy" and told her that he had made a wrong turn, and was on 6th and Becher. Posing as "Amy", I told him to turn the other way, and asked him what kind of car he would be driving. He told "Amy" that he was in a Gray Grand Prix. Minutes later, at about 11:40 am on Wednesday, March 4th, a Gray Pontiac Grand Am pulled into the Omega Burger lot. The vehicle bore an Illinois License plate, and the driver had long hair. Detective McQuown and I, who were positioned in the lot of the Omega Burger, could clearly observe the driver as he exited the vehicle. We positively identified the subject who exited the vehicle as the person whose image was shown to "Amy" during the chat sessions.

Joshua A. Finley was then arrested for Use of a Computer to Facilitate a Child Sex Crime. During the initial Mirandized statement on the scene, Finley admitted to driving to Milwaukee to meet a 14 year old girl whose name he knew as "Amy". He admitted that he had chatted online with her sexually, telling Amy that he wanted to have both oral sex and sexual intercourse with her. Finley admitted that he chatted with "Amy" both from the computer at his parent's residence where he lived, 445 Cambridge Dr., Geneva, IL, and from his cellular telephone.

Finley admitted that he possessed approximately 100 images of child pornography, (which he described as photos of girls under the age of 17 who were either nude or engaged in some sexual conduct), and that these photos would be in a folder in the recycle bin of his parent's computer at 445 Cambridge Dr., Geneva, IL. He stated he had obtained these photos through Yahoo photo share. Finley gave consent to obtain and search his

computer, and his cell phone, which was recovered from him at the time of his arrest.

Members of the Milwaukee Police Department and Milwaukee FBI went to 445 Cambridge Dr., Geneva IL on March 4, 2009, and obtained the desktop computer from that location, with the consent of Finley's parents. A preview search of the computer revealed images of child pornography, two of which are described as follows:

Color Image - depicting a naked prepubescent child, approximately 4-6 years of age, being sexually assaulted penis to vagina

Name - 05yrsfk.jpg
Last Accessed 02/26/09 11:53:25PM
File Created 02/26/09 11:53:25PM
Last Written 02/26/09 11:52:30PM
Logical Size 76,829
Hash Value efb4dae9ee25d3a7f904032723d401f2
Original Path C:\Users\Beth\Pictures\New Folder\New Folder

Color Image - depicting a prepubescent child, approximately 4-6 years of age, naked from the waist down exposing her genitalia. The focus of the image is the child's genitalia

Name yy.jpg
Last Accessed 02/23/09 10:16:02PM
File Created 02/23/09 10:16:02PM
Last Written 02/23/09 10:15:50PM
Logical Size 27,955
Hash Value a97775ce90f119177e8b8350c25e3d6a
Original Path C:\Users\Beth\Pictures\New Folder\New Folder

4. As part of my training, I have become familiar with the Internet (also commonly known as the World Wide Web), which is a global network of computers¹ and other electronic devices that communicate with each other using various means, including standard

¹ Computer: The term "computer" is defined by 18 U.S.C. § 1030(e)(1) to mean "an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device, but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device."

telephone lines, high-speed telecommunications links (e.g., copper and fiber optic cable), and wireless transmissions including satellite. Due to the structure of the Internet, connections between computers on the Internet routinely cross state and international borders, even when the computers communicating with each other are in the same state. Individuals and entities use the Internet to gain access to a wide variety of information; to send information to, and receive information from, other individuals; to conduct commercial transactions; and to communicate via electronic mail ("e-mail"). An individual access to the Internet is accomplished through a computer that is linked to the Internet, usually through a commercial service which is called an "Internet Service Provider" or "ISP." Once the individual has accessed the Internet, whether from a residence, a university, or a place of business, that individual can use Internet mail services, including sending and receiving e-mail.

VI. Conclusion

Based on the above, I have probable cause to believe that Joshua A. Finley, date of birth 05-08-1978, utilized both his desktop computer , and his cellular telephone to communicate his intention to travel to Wisconsin from Illinois to have sexual contact with the 14-year-old female, in violation of Title 18 United States Code, Section 2422(b) (using a facility and means of interstate commerce to knowingly attempt to persuade, induce, entice and coerce a minor to engage in sexual activity, for which any person can be charged with a criminal offense, namely, under Wisconsin Statute 948.02 (2) and knowingly traveled in interstate commerce from Illinois to Milwaukee, Wisconsin for the purpose of engaging in illicit sexual contact with a minor in violation of title 18 U.S.C. § 2423(b). I further believe that Joshua A. Finley utilized his HP Desktop

computer to obtain images of child pornography, in violation of Title 18 United States Code, Section 2252(a)(4)(B) (possession of child pornography).